IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.926 OF 2004

IN

APPEAL FROM ORDER NO.314 OF 2001

Shri D.A.Kadoli and others ...Applicants

vs.

Ramesh Narayan Gupta & Ors. ...Respondents

Mr.Deepak Chitnis i/b M/s.Chitnis Vaithy & Co. for Applicants
Mr.S.S.Kulkarni for Respondent Nos.4 to 8

CORAM: A.S.OKA,J.
DATE : MAY 6,2005.

P.C.:

1. The Applicants have filed separate undertakings which are marked as 'X', 'Y' and 'Z' for identification. The undertakings are taken on record and accepted.

2. My attention has been invited to the order dated 9th January 2003 passed by this Court in Civil Application No.1166 of 2001 in Appeal from Order No.314 of 2001. In the said order it was observed that the Appellant has stated that suit which is instituted by him is restricted to the relief of possession in respect of the premises on second floor. By the said order it was directed that the Applicants will not sell or part with possession of the respective flats without leave of this Court.

3. By this application the Applicants are seeking leave of the Court to transfer the flat Nos.2,3 and 5 in the building in question. It is not in dispute that the said flats are not on the second floor of the building and hence the Appellant has prima facie no claim in respect of the said flats. In view of the undertakings given by the Applicants to give intimation about the litigation pending in this Court as well as in the Trial Court to the prospective purchasers of the said flats, no prejudice will be caused to the Appellant if leave is granted in favour of the Applicants.

4. Hence, I pass the following order :

i) In view of the undertakings which are filed by the Applicants and accepted by this Court, Civil Application is allowed in terms of prayer clause (a). The Applicants are directed to inform the names and addresses of the purchasers of the respective flats to the Appellant within a period of two weeks from the date of effecting transfer.

. Parties to act upon an authenticated copy of this order.

JUDGE.